ORIGINAL

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
CP DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

DAWN D. RADCLIFFE, individually, and on behalf of a class of others similarly situated,

Plaintiffs,

v.

R.J. REYNOLDS TOBACCO COMPANY, a North Carolina corporation.

Defendants.

Case No. '08 CV 0393 H POR

COMPLAINT

CLASS AND COLLECTIVE ACTION

JURY TRIAL DEMANDED

Plaintiff Dawn Radcliffe, individually and on behalf of all others similarly situated, by and through her counsel, for her Complaint against R.J. Reynolds Tobacco Company ("R.J. Reynolds") hereby states and alleges as follows:

R.J. Reynolds manufactures and sells nicotine products, including cigarettes. R.J. Reynolds's practice and policy is to deny wages and overtime pay to its retail representatives ("RR"). The deliberate failure of R.J. Reynolds to pay its employees their earned wages and overtime compensation violates the Fair Labor Standards Act ("FLSA").

This lawsuit is brought as a collective action under the FLSA and as a class action under California state law to recover unpaid wages owed to Plaintiff and all other similarly situated employees.

PARTIES, JURISDICTION AND VENUE

R.J. Reynolds is a North Carolina corporation with its principal place of business in Winston-Salem, North Carolina. R.J. Reynolds does business in the State of California and nationwide.

Dawn Radcliffe (also referred to herein as "Radcliffe," "Plaintiff," or "Class Representative Plaintiff") is a resident of Murrieta, California. She previously worked for R.J. Reynolds as an RR from March 1999 to January 2008 in California. Radcliffe's Consent to Become a Party Plaintiff pursuant to 29 U.S.C. § 216(b) is attached hereto as Exhibit A.

The FLSA authorizes court actions by private parties to recover damages for violation of the FLSA's wage and hour provisions. Jurisdiction over Plaintiff's FLSA claims is based upon 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

Under 28 U.S.C. § 1367, this Court has jurisdiction over Plaintiff's state law claims because the state claims are so related to the FLSA claims that they form part of the same case or controversy. Additionally, jurisdiction over Plaintiff's state law claims is based upon the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d)(2)(A), because the parties are diverse and the amount in controversy exceeds $5,000,000, exclusive of interest and costs.

Venue in this district is proper pursuant to 28 U.S.C. § 1391(b) and (c), because R.J. Reynolds conducts business in this district.

GENERAL ALLEGATIONS

All RRs have the same primary job duty. The principal job duty of RRs is to travel to retail stores where R.J. Reynolds's products are available for sale and verify that the store is complying with the terms of the agreement between the store and R.J. Reynolds. For example, RRs verify that R.J. Reynolds's products are being sold at the agreed-upon price, that the appropriate signage is attached to the products, and that the shelves are properly stocked with

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the products. RRS perform these duties by comparing what they observe in the retail stores to requirements listed in the contracts between R.J. Reynolds and the store. RRs are also required to review R.J. Reynolds materials and communications to ensure that they are familiar with the latest promotions being offered by R.J. Reynolds.

RRs submit an electronic report to R.J. Reynolds for each store they visit in a workday. The report reflects the time that the RR arrived at a particular store and the time that the RR departed from the store, as well as the date that the RR visited the store. R.J. Reynolds uses these reports to periodically check on the performance of its RRs.

10. RRs are required to visit a certain amount of stores every month. The average store visit lasts approximately forty-five minutes, with store visits ranging from ten minutes up to ninety minutes.

11. To accomplish their quota of store visits, RRs are required to drive to several stores per day, many of which are spread across metropolitan areas or large rural areas. R.J. Reynolds provides a company car for RRs to use in traveling their assigned routes. RRs submit a monthly mileage report to R.J. Reynolds for their company vehicles.

12. R.J. Reynolds pays all RRs on an hourly basis and treats all RRs as non-exempt workers.

13. RRs are instructed that no overtime compensation is allowed by R.J. Reynolds, unless the overtime they work has been specifically authorized in advance. Plaintiff was denied overtime compensation during workweeks in which she worked in excess of forty hours.

14. RRs do not sell or offer products to the stores they visit nor do they negotiate with the stores the terms of the contract at issue. RRs merely ensure that the stores are adequately performing their obligations under their pre-determined contract with R.J. Reynolds.

15. R.J. Reynolds does not accurately record or keep the time RRs work. R.J. Reynolds has instructed RRs, including Plaintiff, not to record overtime worked when the overtime had not been approved in advance.

16. RRs are unable to complete their required quota of store visits and satisfactorily perform their job duties without working in excess of forty hours per week on a regular basis.

17. The net effect of R.J. Reynolds's policy and practice instituted and approved by company managers is that R.J. Reynolds willfully fails to pay overtime compensation and willfully fails to keep accurate time records in order to save payroll costs. R.J. Reynolds enjoys ill-gained profits at the expense of its hourly employees.

COLLECTIVE AND CLASS ALLEGATIONS

18. Radcliffe brings Count I, the FLSA claim, as an "opt-in" collective action pursuant to 29 U.S.C. § 216(b), on behalf of herself and the following persons:

> all current and former employees of R.J. Reynolds who have worked as a retail representative in the State of California at any time during the last three years.

19. Radcliffe brings Count II (violation of California Business & Professions Code §§ 17200, *et seq.*) as a class action pursuant to Fed. R. Civ. P. 23, on behalf of herself and as the Class Representative of the following persons:

> all current and former employees of R.J. Reynolds who have worked as a retail representative in the State of California at any time during the last four years.

20. Radcliffe brings Counts III, IV, V, and VI (violation of the unpaid straight-time wages, unpaid overtime wages, meal and rest period claims, and failure to pay compensation due and owing at the time of termination respectively) as a class action pursuant to Fed. R. Civ. P. 23, on behalf of herself and as the Class Representative of the following persons:

> all current and former employees of R.J. Reynolds who have worked as a retail representative in the State of California within the last three years.

21. Radcliffe brings Count VII (the quantum meruit claim) as a class action pursuant to Fed. R. Civ. P. 23, on behalf of herself and as the Class Representative of the following persons:

> all current and former employees of R.J. Reynolds who have worked as a retail representative in the State of California within the last two years.

22. The FLSA claim may be pursued by those who opt-in to this case, pursuant to 29 U.S.C. § 216(b).

23. The state law claims, if certified for class wide treatment, may be pursued by all similarly-situated persons who do not opt-out of the class.

24. Plaintiff, individually and on behalf of other similarly situated employees, seeks relief on a collective basis challenging, among other FLSA violations, R.J. Reynolds's practice of failing to accurately record all hours worked, failing to pay employees for all hours worked, including overtime compensation, and failing to properly calculate and pay overtime compensation that was recorded. The number and identity of other plaintiffs yet to opt-in and consent to be party plaintiffs may be determined from the records of R.J. Reynolds.

25. Plaintiff's state law claims satisfy the numerosity, commonality, typicality, adequacy and superiority requirements of a class action pursuant to Fed. R. Civ. P. 23.

26. The class satisfies the numerosity standards and joinder of all class members in a single action is impracticable. Class members may be informed of the pendency of this class action through direct mail.

27. There are questions of fact and law common to the class that predominate over any questions affecting only individual members. The questions of law and fact common to the class arising from R.J. Reynolds's actions include, without limitation, the following:

(i) Whether R.J. Reynolds was unjustly enriched by failing to pay its employees the straight-time and overtime wages due and owing to them;

(ii) Whether R.J. Reynolds failed to provide adequate meal and rest periods;

(iii) Whether R.J. Reynolds failed to pay all compensation due and owing at termination of employment;

(iv) Whether R.J. Reynolds failed to properly calculate and pay overtime in accordance with federal and state law; and

(v) Whether R.J. Reynolds's conduct constituted a violation of the California Business and Professions Code §§ 17200, *et seq*.

28. The questions set forth above predominate over any questions affecting only individual persons, and a class action is superior with respect to considerations of consistency, economy, efficiency, fairness, and equity to other available methods for the fair and efficient adjudication of the state law claims.

29. Class Representative Plaintiff's claims are typical of those of the class, in that class members have been employed in the same or similar positions as Class Representative

Plaintiff and were subject to the same or similar unlawful practices as Class Representative Plaintiff.

30. A class action is the appropriate method for the fair and efficient adjudication of this controversy. R.J. Reynolds has acted or refused to act on grounds generally applicable to the class. The presentation of separate actions by individual class members could create a risk of inconsistent and varying adjudications, establish incompatible standards of conduct for R.J. Reynolds, and/or substantially impair or impede the ability of class members to protect their interests.

31. Class Representative Plaintiff is an adequate representative of the class because she is a member of the class and her interests do not conflict with the interests of the members of the class that she seeks to represent. The interests of the members of the class will be fairly and adequately protected by Class Representative Plaintiff and her undersigned counsel, who have extensive experience prosecuting complex wage and hour, employment and class action litigation.

32. Maintenance of this action as a class action is a fair and efficient method for adjudication of this controversy. It would be impracticable and undesirable for each member of the class who suffered harm to bring a separate action. In addition, the maintenance of separate actions would place a substantial and unnecessary burden on the courts and could result in inconsistent adjudications, while a single class action can determine, with judicial economy, the rights of all class members.

COUNT I

Violation of the Fair Labor Standards Act of 1938

(Brought Against R.J. Reynolds by Class Representative Plaintiff Individually and on Behalf of All Others Similarly Situated)

33. Plaintiff reasserts and re-alleges the allegations set forth in all preceding paragraphs.

34. At all times material herein, Plaintiff has been entitled to the rights, protections, and benefits provided under the FLSA, 29 U.S.C. §§ 201, *et seq.*

35. The FLSA regulates, among other things, the payment of overtime pay by employers whose employees are engaged in interstate commerce, or engaged in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce. 29 U.S.C. § 207(a)(1).

36. R.J. Reynolds is subject to the overtime pay requirements of the FLSA because it is an enterprise engaged in interstate commerce and its employees are engaged in commerce.

37. R.J. Reynolds violated the FLSA by failing to pay and properly calculate overtime. In the course of perpetrating these unlawful practices, R.J. Reynolds has also willfully failed to keep accurate records of all hours worked by its employees.

38. Section 13 of the FLSA, codified at 29 U.S.C. § 213, exempts certain categories of employees from overtime pay obligations. None of the FLSA exemptions apply to Plaintiffs or retail representatives.

39. Plaintiff and all similarly-situated employees are victims of a uniform and company-wide compensation policy. Upon information and belief, R.J. Reynolds is applying this uniform policy to all retail representatives employed nationwide during the last three years.

40. Plaintiff and all similarly-situated employees are entitled to damages equal to the mandated overtime premium pay within the three years preceding the filing of this Complaint, plus periods of equitable tolling, because R.J. Reynolds acted willfully and knew, or showed reckless disregard of whether, its conduct was prohibited by the FLSA.

41. R.J. Reynolds has acted neither in good faith nor with reasonable grounds to believe that its actions and omissions were not a violation of the FLSA, and as a result thereof, Plaintiff and other similarly situated employees are entitled to recover an award of liquidated damages in an amount equal to the amount of unpaid overtime pay described pursuant to Section 16(b) of the FLSA, codified at 29 U.S.C. § 216(b). Alternatively, should the Court find R.J. Reynolds did act with good faith and reasonable grounds in failing to pay overtime pay,

Plaintiff and all similarly-situated employees are entitled to an award of prejudgment interest at the applicable legal rate.

42. As a result of the aforesaid willful violations of the FLSA's overtime pay provisions, overtime compensation has been unlawfully withheld by R.J. Reynolds from Plaintiff and all similarly-situated employees. Accordingly, R.J. Reynolds is liable for compensatory damages pursuant to 29 U.S.C. § 216(b), together with an additional amount as liquidated damages, pre-judgment and post-judgment interest, reasonable attorneys' fees, and costs of this action.

COUNT II

Violation of the California Business and Professions Code §§ 17200, *et seq.*

(Brought Against R.J. Reynolds by Class Representative Plaintiff Individually and on Behalf of All Others Similarly Situated)

43. Plaintiff reasserts and re-alleges the allegations set forth in all preceding paragraphs.

44. R.J. Reynolds's actions, including but not limited to the failure to maintain accurate employee time records, the failure to pay wages earned, and the failure to pay overtime compensation, constitute fraudulent, unlawful and unfair business practices in violation of California Business and Professions Code §§ 17200, *et seq.* ("UCL").

45. Beginning at an exact date unknown to Plaintiff, but at least since four years prior to the filing date of this action, and as set forth above, R.J. Reynolds committed acts of unfair competition, as defined by Bus. & Prof. Code § 17200, by failing to adequately and properly compensate its employees for work performed on behalf of R.J. Reynolds. These acts and practices violate the UCL in that:

a) the above-described failure to pay wages owed to Plaintiff and the Class constituted a fraudulent and deceptive business act or practice within the meaning of the UCL;

b) the above-described failure to pay wages owed to Plaintiff and the Class constituted an unlawful business practice under the UCL in that the failure violates the FLSA as described herein; and California Civil Code §1770(a)(5), which bars "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have ..."; and

c) the harm of the above-described failure to pay wages owed to Plaintiff and to the Class outweighs the utility of the practices by R.J. Reynolds and, consequently, constitutes an unfair business act or practice within the meaning of the UCL.

46. Upon information and belief, R.J. Reynolds continues its fraudulent, unlawful and unfair conduct as previously described. As a result of said conduct, R.J. Reynolds has fraudulently, unlawfully and unfairly obtained monies due to Plaintiff and the Class and are unfairly competing in the marketplace.

47. Plaintiff and all individuals within the Class are entitled to restitution of monies due, as well as disgorgement of the ill-gotten gains obtained by R.J. Reynolds, for a period of four years predating the filing of this Complaint.

48. As a direct and proximate result of R.J. Reynolds's conduct, Plaintiff is entitled to a preliminary and permanent injunction enjoining R.J. Reynolds from continuing the fraudulent, unlawful and unfair practices described above, and to such other equitable relief as is appropriate under California Business and Professions Code § 17203, including restitution as well as specific relief to enforce the provisions of the California Labor Code and Fair Labor Standards Act pursuant to Business and Professions Code § 17202.

49. Plaintiff is entitled to attorneys' fees and costs for promoting the interests of the general public in causing R.J. Reynolds to cease its unlawful and unfair business practices, in an amount according to proof, pursuant to California Code of Civil Procedure § 1021.5 and any other applicable law.

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COUNT III

Failure to Pay Straight-Time Wages in Violation of California State Law

(Brought Against R.J. Reynolds by Class Representative Plaintiff Individually and on Behalf of All Others Similarly Situated)

50. Plaintiff reasserts and re-alleges the allegations set forth in all preceding paragraphs.

51. Plaintiff alleges that R.J. Reynolds maintained a practice of paying employees without regard to the number of hours actually worked. R.J. Reynolds's practice included requiring employees to work off the clock without pay on a systematic and daily basis. In doing so, R.J. Reynolds inaccurately under-reported the amount of time worked by Plaintiffs.

52. Because of R.J. Reynolds's failures as alleged herein, Plaintiff did not receive compensation for all hours actually worked for R.J. Reynolds. In addition, R.J. Reynolds failed to pay RRs at the agreed hourly rate.

53. R.J. Reynolds's respective failure to pay the correct amount of straight-time hourly wages permits a civil suit to recover wages due to Plaintiff under California Labor Code section 218, as well as recovery of interest, reasonable attorneys' fees, and costs of suit under California Code sections 218.5 and 218.6.

COUNT IV

Failure to Pay Overtime Wages in Violation of California State Law

(Brought Against R.J. Reynolds by Class Representative Plaintiff Individually and on Behalf of All Others Similarly Situated)

54. Plaintiff reasserts and re-alleges the allegations set forth in all preceding paragraphs.

55. Throughout the liability period, IWC Wage Order No. 4 (8 C.C.R. § 11040) and California Labor Code section 510 required the payment of overtime premium(s) for hours worked in excess of eight in a given workday, forty in a given workweek, or on the seventh

day worked in a single workweek. This premium increases to double-time for all hours worked over twelve in a single workday or eight on the seventh day worked in a single workweek.

56. Plaintiff often worked in excess of the maximum number of hours allowed by law without payment of the applicable overtime premiums.

57. R.J. Reynolds failed to pay Plaintiff the overtime required by California law, and failed to properly calculate recorded overtime in accordance with California law.

58. R.J. Reynolds's failure to calculate and pay the correct amount of overtime violates IWC Wage Order No. 4 (8 C.C.R. § 11040) and California Labor Code §§ 510 and 1198.

59. Because R.J. Reynolds failed to pay overtime as required by law, Plaintiff is entitled under California Labor Code §§ 218.5 and 218.6 and 1194(a) to recover the unpaid overtime balance, interest thereon, reasonable attorneys' fees, and costs of suit.

COUNT V

Failure to Provide Rest and Meal Periods in Violation of California State Law

(Brought Against R.J. Reynolds by Class Representative Plaintiff Individually and on Behalf of All Others Similarly Situated)

60. Plaintiff reasserts and re-alleges the allegations set forth in all preceding paragraphs.

61. Plaintiff regularly worked in excess of five hours per day without being afforded at least one half-hour meal period in which she was relieved of all duty, as required by California Labor Code §§ 226.7 and 512, and IWC Wage Order No. 4 (8 C.C.R. § 11040).

62. Plaintiff regularly worked in excess of ten hours per day without being afforded two half-hour meal periods in which she was relieved of all duty, as required by California Labor Code §§ 226.7 and 512, and IWC Wage Order No. 4 (8 C.C.R. § 11040).

63. Plaintiff regularly worked in excess of four hours per day without being afforded a ten-minute rest period.

64. Plaintiff regularly worked in excess of eight hours per day without being afforded either or both of the two ten-minute rest periods as required by California Labor Code §§ 226.7 and IWC Wage Order No. 4 (8 C.C.R. § 11040).

65. Plaintiff regularly worked shifts in excess of twelve hours per day without being afforded any or all of the three ten-minute periods as required by California Labor Code §§ 226.7 and IWC Wage Order No. 4 (8 C.C.R. § 11040).

66. For each time that Plaintiff was not provided the required rest and/or meal period, Plaintiff is entitled to recover backpay wages in the amount of one additional hour of pay at the employee's regular rate of compensation pursuant to California Labor Code §§ 226.7 and IWC Wage Order No. 4 (8 C.C.R. § 11040).

67. Plaintiff is entitled to payment for backpay for each rest and/or meal period that R.J. Reynolds failed to provide during the Class Period. Plaintiff is also entitled to payment of her reasonable attorney's fees and costs of suit incurred in recovering the additional pay pursuant to California Labor Code § 218.5, and interest pursuant to California Labor Code § 218.6.

COUNT VI

Failure to Pay All Compensation Due and Owing at Termination in Violation of California State Law

(Brought Against R.J. Reynolds by Class Representative Plaintiff Individually and on Behalf of All Others Similarly Situated)

68. Plaintiff reasserts and re-alleges the allegations set forth in all preceding paragraphs.

69. California Labor Code § 201 requires an employer who discharges an employee to pay compensation due and owing to said employee upon discharge.

70. California Labor Code § 202 requires an employer to promptly pay compensation due and owing to a quitting employee within seventy-two hours of that employee's notice of resignation.

71. California Labor Code § 203 provides that, if an employer willfully fails to pay compensation upon discharge or resignation, the wages of the employee shall continue for a period of up to thirty days.

72. R.J. Reynolds has willfully failed to pay all compensation and wages due and owing to RRs who terminated their employment with R.J. Reynolds within seventy-two hours of the RR's notice of resignation. As a result, R.J. Reynolds is liable to former RRs for wages in an amount to be determined at trial. Plaintiff is also entitled to payment of her reasonable attorney's fees and costs of suit incurred in recovering the additional pay pursuant to California Labor Code § 218.5, and interest pursuant to California Labor Code § 218.6.

COUNT VII

Quantum Meruit

(Brought Against R.J. Reynolds by Class Representative Plaintiff Individually and on Behalf of All Others Similarly Situated)

73. Plaintiff reasserts and re-alleges the allegations set forth in all preceding paragraphs.

74. When RRs performed administrative work from home, during their initial and end-of-the-day commute time, and during their lunch period, RRs performed valuable services for R.J. Reynolds.

75. In failing to adequately pay Plaintiff and other RRs for their working time pursuant to applicable law and/or R.J. Reynolds's own stated policies, R.J. Reynolds was unjustly enriched by Plaintiff's uncompensated and/or under-compensated time.

76. The reasonable value of Plaintiff's and other RRs' uncompensated and/or under-compensated time is readily established by R.J. Reynolds's stated rates of pay in conjunction

with applicable law for payment of minimum wage and overtime as well as the provision of rest breaks and meal breaks.

77. As a result of R.J. Reynolds's failure to adequately pay Plaintiff and other RRs, R.J. Reynolds is liable to its current and former RRs for the reasonable value of their unpaid services in an amount to be determined at trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on her own behalf and on behalf of all others similarly situated, prays for relief as follows:

1. An order certifying that Count I of the action may be maintained as a collective action pursuant to 29 U.S.C. § 216(b);

2. An order certifying that Counts II-VII of the action may be maintained as a class action pursuant to Fed. R. Civ. P. 23;

3. Compensatory and statutory damages, penalties and restitution, as appropriate and available under each cause of action, in an amount to be proven at trial based on, *inter alia*, the unpaid balance of compensation owed by R.J. Reynolds;

4. Exemplary and punitive damages, as appropriate and available under each cause of action, pursuant to California Civil Code § 3294;

5. An order enjoining R.J. Reynolds from pursuing the unlawful policies, acts and practices complained of herein;

6. Attorneys' fees pursuant to *inter alia*, California Labor Code § 1194(a); and pursuant to the Fair Labor Standards Act of 1938;

7. Costs of this suit;

8. Pre- and post-judgment interest; and

9. Such other and further relief as the Court deems just and proper.

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DEMAND FOR JURY TRIAL

Plaintiff hereby requests a trial by jury of all issues triable by jury.

DESIGNATION OF PLACE OF TRIAL

Plaintiff designates San Diego, California as the place for trial.

Dated: February 29, 2008

Respectfully submitted,

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Jason M. Lindner CA Bar No. 211451
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Kansas City, Missouri 64112

EXHIBIT A

CONSENT TO BECOME A PARTY PLAINTIFF

Fair Labor Standards Act of 1938, 29 U.S.C. § 216(b)

I hereby consent to be a party plaintiff in the foregoing action.

Date: Feb 20, 2008

Dawn Radcliff
Printed Name: Dawn Radcliffe

UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

# 148254 - KD

February 29, 2008
16:31:17

Civ Fil Non-Pris
USAO #.: 08CV0393
Judge..: MARILYN L HUFF
Amount.: $350.00 CK
Check#.: BC 37804

Total-> $350.00

FROM: CIVIL FILING
RADCLIFFE V. RJ REYNOLDS
TOBACCO CO.

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

ORIGINAL

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
DAWN RADCLIFFE, individually and on behalf of a class of others similarly situated

DEFENDANTS
R.J. REYNOLDS TOBACCO COMPANY, a North Carolina Corporation

(b) County of Residence of First Listed Plaintiff Riverside
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant ______
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Jason Hartley, Esq.
Jason Lindner, Esq.
Ross Dixon & Bell, LLP
550 West B Street, Ste. 400
San Diego, CA 92101
(619-235-4040

Attorneys (If Known)
unknown

'08 CV 0393 H POR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

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☐ 890 Other Statutory Actions
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing **(Do not cite jurisdictional statutes unless diversity):**
Fair Labor Standards Act; Calif. B&P Code Section 17200; 29 USC Section 201
Brief description of cause:
Failure to pay straight and overtime wages; failure to pay wages upon termination; quantum meruit

VII. REQUESTED IN COMPLAINT: ☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND $**
CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ______ DOCKET NUMBER ______

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DATE February 29, 2008

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # ____ AMOUNT ____ APPLYING IFP ____ JUDGE ____ MAG. JUDGE ____

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